

**FILED**  
**APRIL 9, 2007**  
KAREN MITCHELL  
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

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JOE LUIS HERNANDEZ, PRO SE,	§	
TDCJ-ID #1214728	§	
	§	
Plaintiff,	§	
	§	
v.	§	2:06-CV-0368
	§	
GREGORY A. GERZON, TITA P. JURADO,	§	
KRISTY L. THOMPSON, and	§	
VAL L. CARTER,	§	
	§	
Defendants.	§	

**MEMORANDUM OPINION AND ORDER OF DISMISSAL  
WITH INSTRUCTION TO PLAINTIFF**

Plaintiff JOE LUIS HERNANDEZ, while a prisoner incarcerated in the custody of the Texas Department of Criminal Justice, Institutional Division, has filed suit pursuant to Title 42, United States Code, Section 1983 complaining against the above-named defendants and requesting permission to proceed in forma pauperis pursuant to Title 28, United States Code, section 1915(b).

Review of plaintiff's January 30, 2007 Application to Proceed In Forma Pauperis and accompanying Certificate of Inmate Trust Account reveals plaintiff had a balance of \$922.03 and receives deposits each month ranging from \$142.00 to \$305.00. Further, plaintiff's average balance is \$533.16.

It is clear that plaintiff has sufficient funds to satisfy the filing fee for the instant suit and does not qualify for pauper status.

**CONCLUSION**

Plaintiff does not qualify for grant of pauper's status and has failed to pay the filing fee in connection with the filing of this suit. Further, dismissal of the instant cause will not bar timely reassertion of the same claims in a new suit because of limitations.

IT IS THEREFORE ORDERED that this Civil Rights Complaint is DISMISSED WITHOUT PREJUDICE TO REILING WITH PREPAYMENT OF THE FILING FEE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk will mail a copy of this Order to the plaintiff, and to any attorney of record by first class mail.

IT IS SO ORDERED.

**INSTRUCTION TO PLAINTIFF**

The Court notes that, on three of the four occasions plaintiff has transmitted pleadings and correspondence to the Court, he has utilized envelopes bearing a return address for an inmate Richard Johnson TDCJ #1005689. Plaintiff is instructed to show his own name and address in the return section of the envelope on all future pleadings and correspondence with this Court. In the future, the Court will not respond to documents purportedly signed by plaintiff but transmitted to the Court in an envelope bearing the return address of someone other than plaintiff.

ENTERED this 9<sup>th</sup> day of April, 2007.

/s/ Mary Lou Robinson  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE